

OCT 6 3 2004

PATENT & TRADEMARK

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 30th day of September, 2004.

Joyne Ford

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Davies et al.)

) Examiner: Hilary L. Gutman

Serial No.: 10/677,998)
~~10/625,350~~)

) Group: 1746-3612

Filed: Oct. 2, 2003)

For: CONTAINER FOR SECURE)
TRANSPORT OF CARGO)

Attorney Docket No.: 29554/04002)

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Restriction Requirement dated September 1, 2004, Applicants elect to pursue in this application claims 1-20, identified as Group I, with traverse.

The Office Action asserts that the inventions of groups I and II are related as product and process of use. However, "[t]here are two criteria for a proper requirement for a restriction between patentably distinct inventions (A) The inventions must be independent; and (B) There must be a serious burden on the Examiner if restriction is required." MPEP § 803, citations omitted, emphasis added. Thus there are *two* requirements for restriction: independence or distinctness *and* a serious burden. Both are required. Section 803 explicitly states that "[i]f the search and examination of an entire application can be made without serious burden, the

Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Applicants respectfully submit that restriction is not proper in this case because search and examination can be made of the entire application without serious burden.

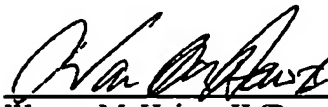
Further, MPEP § 806.05(h) requires an example to be provided of the asserted distinctiveness of the product and process of use. The example provided in the Office Action states "the product recited can be used in a materially different process not involving payment from the consignor." However, in the claims identified as the process of use, claims 21-23, only one claim is directed toward any type of payment. Therefore, the example cited in the Office Action is insufficient for the remaining claims identified as invention II, claims 21-23.

Applicants respectfully submit the restriction is not proper in this case. Search and examination of these groups would not result in a serious burden on the Office, and the required example provided is directed only to a single claim of the separate groups of claims. Applicants respectfully request withdrawal of the restriction requirement.

If issues related to this application can be resolved by discussion, the Examiner is invited to contact the undersigned attorney by telephone.

Respectfully submitted,

Date: 9/30/04


Warren M. Haines II (Reg. No. 40,632)
Customer No. 24024

OCT 06 2004

PATENT & TRADEMARK OFFICE

PTO/SB/21 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number	10/625,350 10/677,998
Filing Date	Oct 22, 2003
First Named Inventor	Davies et al.
Art Unit	1746 3612
Examiner Name	Hilary L. Gutman
Attorney Docket Number	29554/04002

Total Number of Pages in This Submission

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks Response to Restriction Requirement (2 pgs) Return receipt postcard		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Warren M Haines II	Customer Number	24024
Signature	<i>Warren M Haines II</i>		
Date	September 30, 2004		

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Joyce Ford
Signature	<i>Joyce Ford</i>
Date	09/30/04

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.